

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

LN Mgmt v. Gelgotas	2:15-cv-00112-MMD-CWH
Bank of New York Mellon v. Saticoy Bay	2:16-cv-00246-MMD-CWH
Bank of America v. Southern Highlands	2:16-cv- 00404-MMD-NJK
Bank of America v. Spanish Bay HOA	2:16-cv-00691-MMD-VCF
Bank of America v. Aliante Master Assoc.	2:16-cv-00962-MMD-CWH
Wells Fargo v. SFT Investments Pool	2:16-cv-01069-MMD-VCF
Nationstar v. Summit Hills HOA	2:16-cv-01637-MMD-GWF
US Bank v. SFR Investments Pool	2:16-cv-01719-MMD-CWH
Moberly v. Bank of America	3:15-cv-00122-MMD-WGC
Bank of America v. Rainbow Bend HOA	3:15-cv-00291-MMD-WGC
Green Tree Servicing v. Rainbow Bend HOA	3:15-cv-00297-MMD-WGC
Countrywide v. Willow Hills Commons HOA	3:15-cv-00333-MMD-VPC
Bank of America v. Huffaker Hills	3:15-cv-00502-MMD-WGC
Deutsche Bank v. Williamsburg Townehomes HOA	3:16-cv-00004-MMD-WGC
Bank of America v. Esplanade at Damonte Ranch HOA	3:16-cv-00120-MMD-WGC
Bank of America v. Highland Ranch HOA	3:16-cv-00154-MMD-VPC
Bank of America v. Yorkshire Manor I HOA	3:16-cv-00192-MMD-VPC
Ditech Financial v. TBR I	3:16-cv-00227-MMD-WGC
US Bank v. Casoleil HOA	3:16-cv-00307-MMD-WGC
Ditech Financial v. Dorado HOA	3:16-cv-00351-MMD-VPC

ORDER

Staying Case Pending Issuance of Mandate in  
*Bourne Valley Court Trust v. Wells Fargo Bank*

The above referenced cases arise out of a homeowner's association ("HOA") foreclosure and involve a constitutional due process challenge to Nevada Revised Statute Chapter 116's notice provisions. On August 12, 2016, the Ninth Circuit Court of Appeals, in a 2-1 panel decision, found that Chapter 116's notice provisions as applied to nonjudicial foreclosure of an HOA lien before the 2015 amendment to be facially unconstitutional. *Bourne Valley Court Trust v. Wells Fargo Bank, NA*, No. 15-15233, 2016 WL 4254983(9th Cir. Aug. 12, 2016). The *Bourne Valley* decision obviously has profound impact on each case. Accordingly, the Court finds that it is appropriate to *sua sponte* impose a temporary stay until the mandate is issued in *Bourne Valley*.

A district court has discretionary power to stay proceedings in its own court. *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936); see also *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005). “A trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case.” *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979). “When considering a motion to stay, the district court should consider three factors: (1) potential prejudice to the non-moving party; (2) hardship and inequity to the moving party if the action is not stayed; and (3) the judicial resources that would be saved by avoiding duplicative litigation if the cases are in fact consolidated.” *Pate v. Depuy Orthopaedics, Inc.*, No. 2:12-cv-01168-MMD-CWH, 2012 WL 3532780, at \*2 (D. Nev. Aug. 14, 2012) (quoting *Rivers v. Walt Disney Co.*, 980 F. Supp. 1358, 1360 (C.D. Cal. 1997)) (internal quotation marks omitted). See also *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1067 (9th Cir. 2007).

These three factors weigh in favor of a brief temporary stay. A temporary stay would promote judicial economy, particularly given *Bourne Valley*’s ruling’s effect on the due process issue raised in each case. Any potential hardship or prejudice would be minimal in light of the brief duration of the stay until a mandate is issued in *Bourne Valley*. In fact, a stay would benefit the parties as they assess *Bourne Valley*’s import without having to file any unnecessary supplemental briefing.

It is therefore ordered that the above referenced actions are temporarily stayed. Upon the Ninth Circuit’s issuance of the mandate in *Bourne Valley*, the parties in each case may move to lift the stay. Until that time, all proceedings, except for service of process, are stayed.

DATED THIS 23<sup>rd</sup> day of August 2016.



MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE